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THE KAWEAH EXPERIMENT IN CO-OPERATION.

I.

THE LOCATION.

THE Kaweah River rises in the heart of the Sierra Nevada range of mountains. Three principal branches, known as the South, Middle, and North Forks, contribute to send down a volume of water which, at the issue of the stream into the great valley of the San Joaquin, produces an extensive and luxuriant growth of magnificent oaks. On the drier land these trees spread out in beautiful groves; while in the swampy land they are closely matted together by willows and other trees, by tules and wild grape-vines. The South Fork rises under Kaweah Peak, not far from the Mineral King mining region; the North Fork, considerably farther northward, in the region distinctively known as the Giant Forest. This district of country lies in the north-eastern portion of Tulare County, between the 36th and 37th degrees of latitude and the 118th and 119th degrees of longitude. It is marked on the topography of California by an eternal monument,—the loftiest peak of the Sierras, Mount Whitney.

Some thirty miles by wagon-road east from the oak-groved valley town of Visalia, or forty miles from the railroad that threads the San Joaquin Valley, we find on the North Fork, a few miles above where the three branches join, the little settlement known as the post-office and town of Kaweah. This modern village community is situated on both sides of this copious, powerful, and healthful branch of the river. The altitude is about eighteen hundred feet above the sea-level. The country

opens into a gently rising valley, several miles in length and having a greatest width of perhaps one mile. On either side rise ranges of mountains which seclude the hamlet from the world and protect it from the cold, storms, and winds. The bottom lands are covered with fine large oaks, the mountain sides with smaller oaks, with the smooth, red-barked manzanita, the green and gray chamiso, the fragrant, purple-flowered ceanothus, or California lilac, which together make the characteristic, impenetrable chaparral of California. In summer the only green is the foliage of the trees, the ground being burned to an amber-brown, as everywhere in the State. The luxuriant verdure of the winter grass is in spring further enhanced by the brilliant colors of a hundred varieties of wild flowers, including the yellow *eschscholtzia*, typical of the wealth of the Californian mountains, and the blue *nemophila*, typical of the azure of the Californian skies. Here the members of the Kaweah Colony own, either actually or potentially, about six hundred acres of valley lands and mountain slopes.

From the Kaweah village community we ascend along the road for twenty miles to an altitude of from five to six thousand feet. The road we travel is one of a fine, even grade, for most of the distance, displaying excellent engineering judgment. It was constructed, as we shall see, by members of the colony. To maintain its moderate grade it has to wind into many deep cañons, frequently to be blasted out of masses of granite boulders or the steep faces of solid rock. We pass several smaller valleys, and one high, rolling valley, some three thousand feet above the sea-level, containing several hundred acres of land, the site of the former settlement of the Colony Gronlund, or Advance. Beyond this we come to some extensive chaparral-covered plateaus of the rich fruit-producing red soil characteristic of the Sierra foot-hills. At the end of this twenty-mile road we come to a dismantled lumber mill,

barns, several sleeping-houses, and a cooking-house. These are built on the "squatter" homestead claim of John Zobrist. Just before reaching the mill, from the saddle of the ridge, we may look west down over range beyond range to the San Joaquin Valley, and east from crag to crag and from peak to peak towards the seemingly ever-receding summit of the Sierras.

From the mill we may proceed by trail on horseback for seven or eight miles till we reach the Giant Forest. This region is known in the land-office as townships fifteen and sixteen south and ranges twenty-nine and thirty east, Mount Diablo meridian. It has for natural topographical landmarks within its precincts Cathedral Rocks, Kaweah Peak, Needle Rock, and Moro Rock. There comes from the north and east, dividing the forest by a deep, steep, and thickly wooded ravine, the cold, crystal water of the Marble Fork. Extending from the site of the mill east and north, there are many thousands of heavily timbered acres. Pine, fir, spruce, and sequoia, of size and age fit for the saw, exist in quantities sufficient to supply an immense market for many years.

The great timber belt of the Sierra Nevada, extending from where this range closes with the Coast Range on the north, in the vicinity of Mount Shasta, to nearly where they close again on the south, at Tehachapi, is especially distinguished in this south-central portion by the survival of groves of the *Sequoia gigantea*. Living specimens of these trees may be found over an area of some two hundred miles in length, from Calaveras County to Tulare County. The more compact "groves" of Big Trees in Calaveras and Mariposa Counties are known the world over. That of Fresno County has been coming more into notice; while the extensive Giant Forest of Tulare County, not marked by a grove or groves of *Sequoia gigantea*, but by hundreds of groups and individual Big Trees, has but slight popular fame. In fact, until the energy of the Kaweah colonists built their road, it was remote and inaccessible.

The general features of this portion of the Sierras were described more than twenty years ago by Professor Whitney, then State Geologist of California: "A transverse ridge," he says, "running obliquely across from Mount Brewer [from whence, he tells us, is one of the most sublime views which it is possible to obtain, even in this sublimest portion of the Sierra] to Mount Tyndall, forms the divide between the headwaters of the Kern and those of King's River."

South of this, the division of the summit of the Sierra into two parallel ridges is very marked, the Kern flowing in the tremendous gorge between them. The eastern ridge forms an almost unbroken wall for a great distance to the north; while the western one is less distinctively marked, being broken through to allow of the passage of the headwaters of the King's and San Joaquin Rivers. The highest portion of the western ridge is that extending between Mount Brewer and Kaweah Peak, twelve miles to the south. From the great elevation of this last-named peak and its peculiar position opposite to the highest point of the Sierra, and the immense depth of the cañon of the Kern between it and Mount Whitney, it would probably command the grandest view which could be obtained in the whole range of the Sierras. Kaweah Peak is distinctly visible from Visalia to one looking up the valley of the Kaweah River.

Of the terrible grandeur of the region embraced in this portion of the Sierra it is hardly possible to convey any idea. Mr. Gardner, in his notes of the view from Mount Brewer, thus enumerates some of the most striking features of the scene: "Cañons from two to five thousand feet deep, between ridges topped with pinnacles sharp as needles; successions of great crater-like amphitheatres, with crowning precipices oversweeping snow-fields and frozen lakes; everywhere naked and shattered granite without a sign of vegetation, except where a few gnarled and storm-beaten pines (*Pinus contorta*, *P. albicaulis*, *P. aristata*) cling to the rocks in the deeper cañons,—such were the elements of the scene we looked down upon while cold gray clouds were drifting overhead."

The finest view I had in my visit to the Giant Forest was from the vicinity of Moro Rock, a majestic mass of granite which rises perpendicularly seven hundred feet, it

is said, from its base. Round its foot winds the Marble Fork, so named because of the beautiful marble cliffs over which the stream flows in a succession of cascades. Across the main cañon, to the east and south, rise the spires, needles, crags, towers, battlements, and buttresses that make up the denuded, glaciated granite summits of the Sierras. Below, in the depth of the cañon, is the silvery line of the main stream, winding its way down to the San Joaquin Valley. Too distant to see the movement of the water, the frequent rapids look like patches of snow. Westward the scene discloses a succession of ridges, running transversely, and breaking off in an irregular line where the Kaweah River struggles through. In the farthest distance, to the north-east, not far from San Francisco, may be discerned two peaks of the Coast Range. Following down the main line of the river, to the west and south-west there may be seen the golden fields of grain, or the darker spots caused by the presence of oak groves, orchards, vineyards, or villages, marking off the San Joaquin Valley into spaces of irregular size. At the utmost reach of the eye, the expanse of water known as Tulare Lake sends back its shining signal. Perhaps a faint movement may be seen where the railroad train glides through the heart of the great valley.

Turning from the polished ledge of rocks whence we have viewed this scene, our horses carry us again in a moment into the seclusion of the forest.

The Giant Forest extends for a number of miles along the tributaries of the King's and Kaweah Rivers. In some places the growth of timber is dense, in others more or less open and sparse. Throughout the whole region where the big tree grows, however, the various timber trees are of sufficient size and quantity to make lumbering profitable. While the smaller specimens of the *Sequoia gigantea* would be profitable in the mill, the timber value of the forest does not come from these trees. The

pine, spruce, and fir, which grow in different belts, are the valuable and coveted timber products of the forest. The sugar pine, furnishing the finest timber of California, grows here abundantly and of great size. All the varieties of trees are of remarkable beauty and symmetry, preserving up to a great height a very slowly diminishing diameter.

The big trees are, of course, the distinguishing mark of the forest. They grow in this region in greater numbers than anywhere else, and their beauty is certainly not excelled by those of any other groves. There are thousands of them within the limits of the forest. The average diameter is probably ten or twelve feet. There are many having a diameter of twenty feet, and a number above thirty feet. What may be the diameter of the largest tree cannot be stated positively, nor whether the largest tree of California grows in this forest. Certain it is, however, that there are many trees, both standing and prostrate, a hundred feet or more in circumference and two hundred and fifty feet in height.

The beauty of the big tree consists in its fine red color, its majestic stateliness, its perfectness of form, its constancy of diameter. No foliage breaks the smoothness and symmetry of its contour until within perhaps fifty feet of its crown. The diameter which it has within a few feet of its top might be indicated by saying that, to gradually taper to a point as other single-limbed trees do, one of these big trees would have to double its height. There are none of the larger and oldest trees but have been shattered at the top by the stress of storms and the weight of snow. Many that lie prostrate bear traces of the violence that caused their overthrow. The Kaweah colonists have affixed the names of some of the apostles of socialism, such as Karl Marx and John Swinton, to the larger trees. Karl Marx, the largest one measured by the colonists, shows in a photograph twenty persons standing

shoulder to shoulder with their backs against one face of the tree. Emerson and others, too, have been remembered by them in the names given to some of the larger and more beautiful trees.

Visited in August, the forest showed the glory of the springtime at its full. A succession of beautiful and delicate wild flowers, varying in their kind and color with the altitude, the moisture, and the shade, was in full blossom. A musk-color and a purple lupine-bloom were the most constant characteristics. Numerous meadows, varying from two or three acres to a hundred acres in area, produced an exuberance of nutritious grass. Small streams and ice-cold springs are frequent. Birds are very scarce, but bear and deer are sufficiently plentiful. Thanks to the careful guardianship exercised by the colonists during the last five years, there were no traces of recent fires.

It is claimed that the marble veins in the Marble Cañon contain fine marketable stone. It was the declared design of the colonists to establish a marble industry, which, they claimed, would rival the timber industry in importance and value. I did not have time to make any examination of these marble resources.

II.

PLAN OF ORGANIZATION.

The Kaweah Colony enterprise seems to have received its inception from a few persons of more or less definite socialistic tendencies. The idea of the colony antedated the appearance of Bellamy's book. Gronlund's *Co-operative Commonwealth* may have been an inspiration to it, as it is now the reliance, if not the foundation, of the completed undertaking. Whatever may have been the plans which were broached on November 9, 1884, when was held the first meeting of the nucleus that afterwards became

Kaweah Colony, a definite basis of operations was formed a year later. In October, 1885, forty-two men — most of them afterwards associated for a longer or shorter time in the Kaweah Colony — made preliminary filings under the laws of the United States on timber lands in the Tulare Giant Forest. As each of these men expected to receive one hundred and sixty acres covered with valuable timber, it was intended through co-operative labor to acquire wealth wherewith to develop their ideas of co-operative, and perhaps socialistic, reform. It is difficult to ascertain the real motives that prompted the enterprise. It is difficult to settle how much of co-operation pure and simple, how much of socialism, how much of private greed or personal ambition, there was in the inception of the project. I am not prepared, however, although I have heard and read a large amount of adverse comment and adverse testimony, to lay up any greater share of the baser motives than usually accompanies any undertaking. Any imputation of baser motives would have no better foundation than conjecture and inference. Certain it is that the obvious facts throughout the history of the enterprise bear witness to the best attributes of human nature on the part of the body of the colonists.

The colony has passed through several phases,—a voluntary association, a short-lived corporation, and a joint-stock company. The question in March, 1888, as to whether there should be a corporation or a partnership, resulted in the most serious of the dissensions in the history of the colony. When it was decided to form a joint-stock company, some fifty men, among them some of the claimants to timber lands in the Giant Forest, left the enterprise. Twenty-seven formally entered a protest against the change, and denounced the undertaking. The objection to an incorporation was that the stock of such an organization would be transferable to any one, and that one person could hold an unlimited number of shares. It was thought

that the safety of the organization consisted in the establishment of a personal relation between the associates,—in having individuals, and not shares or money, represented. Nevertheless, on March 9, 1888, a limited company was formed under the name of the “Kaweah Co-operative Colony Company, of California, Limited, a Joint-stock Company.”

The deed of settlement has a number of ambiguities, resulting from a faulty construction of the sentences. The by-laws, adopted on the same day, are, however, in general, lucid and exact, and comply, as a rule, with the laws of grammatical construction. From these by-laws and from Gronlund’s *Co-operative Commonwealth*, which is obviously the source of the ideas contained in them, we can gain a view of the organization of the colony.

The number of members is fixed at five hundred, and the capitalization at \$250,000. This amount may be increased or diminished from time to time by a two-thirds vote of the shareholders. The relation established by admitting a member is a personal one, and each member is regarded as a trustee for each and all others and for the company at large. Membership commences on the payment of the first ten dollars of the amount of capitalization. Upon the payment of one hundred dollars in money, a member is entitled to residence and employment on the grounds of the colony, such privilege being granted in accordance with priority of payment. The membership contribution of five hundred dollars may be paid in instalments of not less than five dollars per month. One hundred dollars must be paid in money: the remainder may be paid in labor or materials. No special privileges, benefits, or emoluments may be granted to any member. Every member is entitled to an opportunity to work according to his or her fitness; and every member is required to render value in labor, money, material, or services, for everything he or she receives from the colony.

No person is allowed to hold more than one certificate of membership in the colony; but, as a premium upon marriage, a married shareholder is entitled to two votes in all colony affairs. One of these votes may be cast by the husband and one by the wife. Each member is entitled to a piece of land of not less area than one hundred and fifty feet square. Upon this he may erect a dwelling, of which he may enjoy the exclusive use and privilege as long as he remains a member.

Applicants for membership are required to fill out a blank form of application which sets forth the name, nativity, residence, age, whether married or single, number, age, and sex of children, occupation, capacity for employment, physical condition, religious connections. The form of application inquires whether the applicant is a member of any trade, labor, or economic organization, and the name of such, if any; whether he is a subscriber to any labor or economic journal; if so, of what one. It inquires whether he believes that he understands the "co-operative *spirit*"; and whether he is "willing, if elected a member, to honestly, truly, and persistently endeavor to harmonize others, to correct his own faults, to try and discover and do his *duty* rather than wholly rely upon his *right*." The applicant must send with his application ten dollars, which is returned if his application is rejected. He is requested to send his photograph.

The board of trustees provisionally accepts or rejects all applicants for membership. All names of such persons are published in a monthly report rendered to all members. If no adverse vote is received within thirty days, the decision of the vote stands. A negative vote of any five members suspends the applicant until the board submits his case, which they must do in their next report. In the vote taken thereupon, five per cent. of negative votes finally rejects. An applicant rejected by the board may, upon recommendation of five members, appeal to the

full membership, and is elected if he receives a two-thirds vote in his favor.

A member may withdraw at any time by giving three months' notice of his intention. He is entitled to receive back all that he has paid upon his certificate of membership, less any debts owing to the colony. This repayment "shall be made at the earliest possible convenience of the colony, but shall not be given priority over other liabilities whose payment is necessary to the perpetuity of the colony."

Children of members are eligible to become members at the age of eighteen, upon payment of the membership fee. This fee may, however, in the case of such persons, if they have been residents upon the grounds of the colony for five years prior to their majority, be paid wholly in labor. Certificates of membership are not transferable without the consent of the company.

All land and buildings, and all other property whatsoever, except private dwellings and the personal effects of members, and goods specially excepted by the company, are held in common by the shareholders. In the case of the withdrawal of a member, he is allowed the full value of a fair appraisalment, made upon the basis of cost, of his private dwelling and improvements. In the case of the death of a member, the amount paid upon his certificate, together with the actual cost of his dwelling and other improvements made upon his building lot, is paid to his legal heirs. The right to withhold such payment for one year is reserved.

The colony keeps a store for the convenience of members, at which all articles of necessity may be purchased by them with the labor time-checks provided by the colony. Cost is set as the limit of price. No member or other person is allowed to keep a private store for the sale or exchange of goods or wares of any kind upon the lands of the colony. No member is allowed to employ directly

another member, but only through the medium of the company.

The colony is declared to be "a thoroughly democratic institution, *in the true meaning of the term.*" The implication here is clearly to the effect that the term "democratic" has not its true meaning in the political vocabulary of to-day, but that in the coming socialist state it will have found this true meaning. It is supposed that, in the co-operative commonwealth, society will be the incorporated whole population. Classes, and with classes rule, will be destroyed. Government will not be wanted by an incorporated whole people. Administration will be the only thing needed, and good administration will put every one in the position for which he is fitted. Administration by competent and qualified functionaries, whose interest is entirely coincident with their duty, is, then, the meaning of democracy.

The conditions of democratic administration, so understood, will consist in tenure of office during good behavior, appointment from below and removal from above, and the referendum.

Tenure during good behavior does not imply tenure for life, nor will the termination of such tenure rest upon any process of impeachment nor demand any charge of infamous crime. As every citizen will be a public functionary, he will have a life tenure somewhere. Discharged from one position, he will find his place somewhere else. Every public functionary will, in respect to his liability to removal, be to the whole people of the State, or to some group of the people, as the case may be, in the position similar to that borne by the physician to his patient: so soon as he fails to give satisfaction, he will be removed and replaced by another.

By good behavior is meant, first of all, efficiency. And every officer charged with overseeing others will be held responsible, not only for the efficiency of his own personal

work, but for the utmost efficiency from every one of his subordinates. "This personal responsibility and instant dismissal for failure will permeate the whole service from top to bottom." This may be regarded as the negative side of such tenure. On the positive side, when the proper man has got into the proper office and performs his work well, he will continue in it practically at his own pleasure.

The matters of appointment and removal are intimately connected with the form of tenure, and the methods provided flow perhaps naturally, although not obviously, from tenure for good behavior. The object to be gained is responsibility, which is regarded as the cardinal point of democracy. There must be a supreme authority in the general membership, an ultimate appeal to the collective control. But there must be division of functions to such an extent that every requirement of society may find its proper place for attention and performance. The great departments of social function, coextensive in territorial range with the co-operative commonwealth, are divided into bureaus, comprising properly related industries. Each central bureau of any given industry has its more or less numerous districts. In the several districts are the factories or other agencies for carrying on the industry. Now, the principle which would govern the co-operative commonwealth in the matter of appointments may be described as follows: In each of these factories, for instance, the operatives, representing perhaps subdivisions of the particular industry, would meet together and elect their respective foremen. These foremen would meet and elect a superintendent of the factory. And all the superintendents of the industry in question, who live in a given district, would elect a district superintendent. These district superintendents, again, from all over the commonwealth, would elect a bureau chief of their particular industry. This bureau chief, together with the bureau

chiefs of the related industries, would elect a chief of department. Thus there would be built up by appointment from below a system of directing officers of supposed greatest competency.

The main point now to be gained is to make continued efficiency secure by fixing responsibility. The dangers to be avoided are, on the one hand, an insinuating weakness in the administration, and, on the other hand, an overpowering bureaucratic influence and consequent corruption. This object may be gained and these dangers obviated, it is argued, by a proper method of removal. There must be responsibility to some one person for every act. Each directing officer is to be held responsible for the omissions as well as the commissions of every one of his subordinates. Each superior officer, then, being responsible for his subordinate officer, must have authority to dismiss him for cause. But there may be an officer superior to this superior officer, and the former may likewise dismiss the latter; and the action of the latter in removing his subordinate may conceivably be the cause of his own removal. So we should go on through the series until we come to the officers of the topmost round. There being no officers of superior rank responsible for actions of these highest officials and capable of securing efficiency in them, we must find some other agency for removing incompetent or otherwise unsatisfactory chief officials. The method that is suggested is to make every department chief, for instance, liable to removal by the whole body of his subordinates, both officers and operatives.

Such is an exemplification of the principle of election from below, removal from above.

In legislation the referendum is to take the place of representation. The charge is made that "the people are peculiarly unfitted for the function with which they are now constitutionally invested,—that of selecting men of whose qualifications they can know nothing for offices of

the duties of which they are ignorant." And the claim is made that they are peculiarly well fitted for passing upon laws submitted to them, adopting or rejecting them at discretion.

The chiefs of departments will be organized into a board of administration, national or other, as the case may be. It shall be the duty of this board to supervise the whole social activity of the commonwealth. These chiefs are to be agents, not representatives. Where laws must be framed, this board may agree upon the general features, and intrust the drafting of the bill to that chief whose department the measure principally concerns. Or it may be referred for this purpose to the chief of the judges. When this draft has been adopted by the board, it may, according to its nature, be submitted to the whole people or to the people of a particular department.

These principles of the ideal co-operative commonwealth the Kaweah Co-operative Colony assumes to put in practice, so far as their presence in the midst of an antagonistic "competitive" world will permit. Situated in California, regard must be had to the legal requirements of that State. An association must be organized which will have legal standing. An institution must be formed which, while subordinate to a political system and encompassed by a social and economic system which are built up upon foundations radically different from it, may yet seek to accomplish the special ends of its own community, and at the same time further the regeneration of these political and social systems. Consequently, the Kaweah Colony must form itself into a corporation or partnership. The latter, after a brief trial of the former, was adopted; and a board of trustees, who should attend to their necessary dealings with the legal and economic world, was placed in charge.

The supreme authority is declared to reside in the membership. A majority vote of this body, except in the

amendment of the deed of settlement, where a three-fourths vote is necessary, is in all cases of binding force. An appeal lies to the membership under all circumstances. The referendum is adopted in such form that ten per cent. of the membership may at any time demand the submission to vote of any measure which has been initiated by the officers of the company.

The trustees, as also any other officers elected by the membership, are elected upon the principle of the cumulative vote. All officers hold office during good behavior, and may be removed by the membership, in the exercise of the imperative mandate, at any time on demand of ten per cent. of the membership. Officers of a department may be removed by the workers of the department.

The managing authority is the board of trustees, consisting of five persons. Four of these are elected specifically as trustees, and the fifth as general secretary of the company, becoming thereby *ex-officio* trustee. The board elect from their own number a chairman of their own body and a general superintendent of the colony. They must appoint a book-keeper and such other officers, agents, and employees as may be necessary; and they prescribe the duties of such subordinates except as otherwise provided by the by-laws. They may presumably confer the duties of any office, such as that of treasurer or attorney for the company, upon one of their own number. They are directed to create from time to time such departments of administration as may be necessary, following the suggestions of Gronlund's *Co-operative Commonwealth*.

The duties of the general secretary are to keep the minutes of all meetings, conduct the correspondence, recruit the membership, receive, receipt for, and deposit in bank or with the treasurer all sums paid upon membership account, make monthly reports of the condition of the company, and issue all appeals and notices, and so on. The general superintendent oversees and directs the material

work of the company, under direction of the board of trustees. The membership at large elects also a chief of the department of education, whose chief duty has been to supervise the publication of a company journal. This journal, issued weekly under the name of the *Kaweah Commonwealth*, publishes the reports of the officers, educational matter, and general co-operative news. It is used by the secretary for the purpose of recruiting the membership.

General meetings of the company are held regularly on the first Saturday of each month. Special meetings may be called by the trustees, or by twenty per cent. of the membership, at any time. A quorum consists of twenty per cent. of the membership.

Eight hours constitute a day's work in the colony. Thirty cents per hour is the established basis of exchange for labor rendered to the colony by members and by the colony to the members. No money is used within the colony; but time-checks, evidences of so much labor performed for the company, and tickets of various denominations, are the medium of exchange. It is provided — a provision which is as yet of no avail — that at least twenty-five per cent. of all surplus in the hands of the treasurer at the end of each year shall be invested, under the direction of the colony, in a plant of some kind that will tend to promulgate the co-operative views of the colony and to benefit humanity in general. The balance shall be declared as dividends among those to whom time-checks had been issued, in proportion to the number of hours worked. All quarrels, grievances, and disputes must be settled by arbitration.

Subjoined (page 73) is an outline of the colony's projected frame of government. The tendency has been rather to simplify than to extend this scheme. It provides for a vastly more fully developed and complex social and economic system than the colonists have as yet at-

tained to. They seem, however, to abide by the scheme in its main lines and underlying principles. It is interesting in itself, although somewhat fantastic in some particulars. And this fantastic element, it may be remarked, representing the personal peculiarity of one of the members, is displayed not infrequently in the colony arrangements.

III.

THE CONTROVERSY WITH THE GOVERNMENT.

During the month of October, 1885, forty-two men made filings at the Visalia land office for entries on timber land in townships fifteen and sixteen south, in ranges twenty-nine and thirty east, Mount Diablo meridian. This land had been surveyed and placed on the market, under the provisions of the Timber-land Act of June 3, 1878. The filings then made fulfilled all the conditions required by law, and were followed by the necessary publication. On December 30, the day appointed by the register, final proofs were offered and accepted as satisfactory at the land office. The purchase-money, \$410 for each one hundred and sixty acres, was then tendered; but it was declined because of a telegram from United States Commissioner Sparks, dated December 2, and reading, "Allow no entries for filings on land in townships fifteen and sixteen south, ranges twenty-nine and thirty east, Mount Diablo meridian, until further orders." On December 31 the register received from Commissioner Sparks a letter which directed him, on receipt thereof, to "suspend all entries of filings for lands" in the townships mentioned in the despatch. In a letter dated March 11, 1886, the Commissioner says, "The reason which induced the suspension of the townships named were supposed irregularities in the surveys, and alleged fraudulent entries of timber lands." As seen in his report for that year, Commissioner Sparks regarded this as one

among many suspected districts where gigantic frauds were being perpetrated under cover of the United States land laws. He therefore suspended the sale of these lands, together with others, in the hope, as he said, that the entryman, if knowing himself guilty of fraud, "would fear that the general land office would establish it, and thus make default."

Most of these filers, who afterwards associated themselves in the Kaweah enterprise, and thirty-nine out of a total of fifty-three who had made filings during the month of October, 1885, appealed to the General Land Office. The local land officers, furthermore, explained to the filers that, in their opinion, nothing was in question except the good faith of the filers, and that, such good faith appearing, the order of suspension would be withdrawn and patents regularly issued. Thereupon certain homestead claims were entered in an adjoining township, in the valley or cañon land which constitutes the approach to the forest. Moreover, acting upon the advice or with the countenance of the local land officers, certain "squatter" homestead claims were made in the suspended townships. These "squatter" claims were made in order to anticipate the removal of the suspension and to gain precedence over any other claimants.

The Kaweah associates — believing that the ground of suspension was, as stated, suspicion of fraudulent entries, and that, fraud being disproved, the order of suspension would be withdrawn; relying upon legal advice to the effect that such suspension could be made only on the ground of lack of good faith, could be only temporary, and to affect fraudulent entrymen; and believing that, there being good faith on their part, their title was practically perfected by their conforming to all the requirements of the act of 1878 and by their tender of the purchase-money — proceeded to render the forest accessible by building a wagon-road thither. In this labor they were engaged until the middle of the year 1890.

In the summer of 1890, having reached the outskirts of the forest, they placed a portable saw-mill and a portable traction engine on the "squatter" homestead of John Zobrist, one of their associates. A few thousand feet of lumber were cut upon this homestead, and later upon a neighboring timber-land filing. In August, 1890, at the instance of the local land agent, suit was brought in the United States District Court against the trustees of the Kaweah Co-operative Colony for cutting timber — namely, five pine-trees — on the lands of the "squatter" homestead.

On September 25, 1890, an act was passed by Congress, covering slightly more than two townships lying directly to the south-east of the land claimed by the colonists. This act, entitled "An act to set apart a certain tract of land in the State of California as a public park," had the following preamble: "Whereas the rapid destruction of timber and ornamental trees in various parts of the United States, some of which trees are the wonders of the world on account of their size and the limited number growing, makes it a matter of importance that at least some of said forests should be preserved." No provisos or exceptions were made in this act, and the park was placed under the exclusive control of the Secretary of the Interior. The land specified in this act lies in the well-known Mineral King mining region, and contains many big trees.

On October 1 another act was passed, without preamble, entitled "An act to set apart certain tracts of land in the State of California as forest reservations." It is in three sections. Section one sets apart as reserved forest lands a large tract surrounding the Yosemite Valley and the Mariposa Big Tree Grove. It contains a proviso that nothing in the act shall be construed as affecting any *bona fide* entry of land "made within the limits above described under any law of the United States prior to the approval

of this act." Section two places the land thus reserved under the exclusive control of the Secretary of the Interior. Section three, bearing every trace of an afterthought, was added, reserving and withdrawing from settlement and occupancy several different tracts of land, and among them, "subject to like limitations, conditions, and provisions," townships fifteen and sixteen in ranges twenty-nine and thirty.

What distinction, if any, Congress intended to make between the "national park reservation" of September 25 and the "forest reservation" of October 1 does not appear. There would seem to be some basis for the argument that has been urged that the language of the act of October 1 was purposely used in order that these lands might be more easily restored to settlement and sale at any time that Congress might desire. The Secretary of the Interior, however, has obscured any difference in the language of the two acts, and has given, under the exclusive control vested in him, the name of "Sequoia National Park" to all the contiguous lands reserved in this vicinity, embracing five townships.

Another suit was instituted against the colonists under the reservation act of October 1, 1890, for cutting timber on one of the timber claims.

In the first case, Zobrist had applied to homestead the land in May, 1888. This was two years and a half after the suspension ordered by Commissioner Sparks in December, 1885. Zobrist had made his filing in the land office, and built a cabin on the land, so as to gain priority when the suspension should be removed. He was associated with the timber claimants in the Kaweah enterprise. The colony's mill, together with several other necessary buildings, had been erected on the Zobrist homestead. The wording of the act under which this suit was brought (the Timber-land Act of June 3, 1878) provides that it shall be unlawful to cut or remove any timber growing on any

lands of the United States "with intent to export or dispose of the same," and that any person guilty of so doing shall be fined for every such offence not less than \$100 nor more than \$1,000. This is followed by the proviso that nothing in the act shall prevent any miner or agriculturist "from taking the timber necessary to support his improvements." The prosecution was based on the claim that the mill, barns, and cabin constructed on Zobrist's homestead were not "improvements" in the meaning of the act, and that the timber so used came under the "export and dispose" clause. The defence was based on the claim that none of the timber cut was used or intended to be used for "export or disposal," as these words had been interpreted by decisions of the General Land Office, but only for supporting improvements on Zobrist's homestead. The court, however, instructed the jury in accordance with the construction of the prosecution, and a verdict of guilty was brought in. The minimum fine was at first imposed; but, at the request of the defendants, this was increased to \$301 apiece, in order that an appeal might be taken. When the grounds of error were taken before the late Judge Sawyer of the Circuit Court, the writ was granted. The second case was now dismissed by the government.

In the mean time — namely, in April, 1890 — the Secretary of the Interior finally rendered a decision on the appeal which had been made to him five years previously, early in 1886. The gist of his decision is that Congress must be presumed to have had all the questions involved before it, and that Congress had, by act of October 1, 1890, expressly and distinctly reserved and withdrawn from sale and settlement the land embraced within the claims of the Kaweah timber filers. The Secretary, therefore, denies the appeal.

The writ of error being granted, a bill in equity enjoining the colonists from cutting timber within the reserva-

tion was filed in the Circuit Court. This was followed by a cross-bill in equity from the colonists, in which they set forth their claims. These proceedings have been allowed as a *supersedeas*, and a case which, it is to be hoped, may now, for the first time, go to the merits of the matter, stands upon the calendar of the United States Circuit Court.

The cross-bill rests mainly upon the claim that the proceedings of the timber filers in October and December, 1885, together with the proofs and tender then made, amounted to a legal contract between the timber claimants and the government, and that the suspension of entries by Commissioner Sparks in December, 1885, and the decision of Secretary Noble in April, 1891, were without authority of law.

IV.

CONCLUSION.

It will be seen from the foregoing that the Kaweah Colony has had the brightest possible material prospects, but that these prospects have been obscured, if not destroyed, by the action of the government. A further investigation discloses the fact that other difficulties have beset the undertaking besides the loss of the timber claims. Many persons who had joined the colony have silently dropped out, while others have withdrawn in dissension. Those who have stood by the undertaking lay most of the blame of their trouble, whether in the form of denial of their claims by the government or of internal dissension, to the machinations of the lumber companies of the Sierras. By the seceders, by personal enemies, and by the local land officials, the cause of the trouble is said to lie in unscrupulous methods and swindling designs on the part of the leaders of the colony. The truth it is impossible to ascertain. The ground of the last charge, however, I can-

not find evidence to sustain. That some of the leaders have been injudicious in some of the glowing accounts given of the colony and its prospects is unquestionable. Yet, in examining the company's letter-book for the last year or two, I find the secretary more often discouraging immigration to the colony than inviting it. But the printed descriptions have had their baneful effect in encouraging enthusiasts of all sorts to think that Kaweah offered prospects of carrying out their pet fancies and follies. Naturally, when these persons found out the real truth,—the hard pioneering life that would have to be undergone, and the general sobriety of the bulk of the colonists,—they became disgusted, and deserted the enterprise.

The present composition of the colony is heterogeneous. But, while the colonists represent many different nationalities in the one hundred to one hundred and fifty persons now resident at Kaweah, they are preponderantly American. They have come from occupations in the "competitive" world of all descriptions,—mercantile, professional, manual. They are of all grades of education, from the university graduate to the man merely trained in the common schools. They are all, perhaps without exception, however, intelligent, thoughtful, earnest, readers of books and journals, alive to the great economic and social questions of the day. They are of all sorts of faith and no-faith,—Spiritualists, Swedenborgians, Unitarians, agnostics, materialists. They have no church, and care for none.

The women are, in many instances, especially remarkable. Courageous, devoted, womanly, intellectual, they must interest any visitor. Some are quiet, taciturn, reflective; others, gentle, dependent, helpful; others, serene, motherly, protective; others, strong, buoyant, energetic. The conversation of one or more I found really brilliant, original in thought, informed in subject-matter, rich and fluent in vocabulary.

The comforts of life, while perhaps occasionally pinched, have been generally sufficient. Simple frame houses are replacing the tents with which the colonists have had to put up until recently. Comfortable chairs and beds are found in all the houses. Books of solid character are found in many homes. Good pictures, some the paintings of a colonist artist of promising talent, adorn many walls. Plenty of fire-wood keeps away any possible cold in this mild, equable climate. A home-like air pervades the settlement.

The resources of their home have not begun to be utilized. This year a sufficiency of fresh vegetables was produced; but, in a region adapted to fruit culture of all sorts, they are only now beginning to plant trees. There is room enough in their present possessions for raising all the poultry they could use. The number of swine could be largely increased. For the raising of cattle, grain, and hay, they need a larger acreage; and I can see no reason why they may not obtain it.

A large force of their men are at present engaged in cutting timber and sawing lumber on a quarter-section which they have leased. This timber land is remote both from their settlement and from the valley. Their income from this source cannot be great. Members have had to go out more or less, to work on farms and elsewhere, in order to supply themselves with such ready money as they needed. This is but a passing phase, if the colony obtains possession of the timber claims in the Giant Forest, or if they succeed in starting other industries now in prospect.

Although undergoing a change of officers on account of personal disagreement, I found the resident colonists satisfied with the outlook and determined to stand by the enterprise. I found, also, non-resident members (of whom there are perhaps four hundred, representing in their families twelve or fifteen hundred souls) awaiting and anticipating the opportunity to remove to Kaweah. The relief from

responsibility, from the necessity of making ends meet, the sense of being provided for, is a great deal to many. The thought that they are working for their own ultimate benefit and improvement, and for the propagation of an idea, is the motive power to others.

On the whole, I can say, although the comparison does not do them justice, that their life is fuller, better, and more profitable than that of either the average California farmer or the members of the average California village. Their food is more wholesome and varied than that partaken by the farmer's family; and there is a higher intelligence, more of a mutually helpful spirit, more of purpose in life, a better moral and social tone, than is found in the village.

In the matter of the controversy with the government, I can come to no other conclusion than that a great injustice has been done to those persons who in good faith made filings for timber claims in October, 1885. The number of these who are now connected with the Kaweah Colony is comparatively small. The number of those who labored in the building of the road and who still remain at Kaweah is likewise comparatively small. But partial, if not full, justice can still be done, and ought to be done, by the government. When it is notorious that thousands of acres of the most valuable timber and agricultural land in California have been illegally absorbed by individual capitalists and by corporations, with almost the connivance of the government, it seems unpardonably harsh and cruel that these men, most of whom are indubitably honest, who have given their energy and life to this undertaking, should be made the victims of even the government's repentance. The law of the case is not so clear to my mind. In fact, it is difficult to find consistency in the decisions of the Land Office. Nor do the decisions of the Supreme Court speak in perfectly unmistakable terms. But even the law seems to me to incline in favor

of the timber-land claimants. If this be so, these claims come under the saving clause of the act of October 1, 1890. If not, there is still an equity in the case which demands action on the part of Congress, to make compensation for the wagon-road to the Giant Forest and to allow timber entries elsewhere, or else to reopen the Giant Forest to settlement. That the big trees should be preserved, and that guarantees should be exacted for their preservation, all will agree. The ordinary lumber company would exploit the forest, caring nothing for what became of these big trees which might be too large for the saw. Whether the Kaweah colonists would proceed in the same way is, of course, uncertain. Their past acts seem to indicate that they would perceive that their own real interests lay in preserving the giant trees.

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SKELETON SCHEME OF ORGANIZATION OF THE KAWEAH CO-OPERATIVE COLONY.

A MODEL OF A CO-OPERATIVE STATE,

CONSISTING OF

DIVISIONS (3), each under a Manager;

DEPARTMENTS (13), each under a Superintendent;

BUREAUS (58), each under a Chief; and

SECTIONS (—), each under a Foreman.

DIVISIONS.

- I. Division of Production.
- II. Division of Distribution.
- III. Division of the Commonweal.

DIVISION I. [Production.]

(1) Department of Collection.

BUREAUS.

1. Fishing.
2. Hunting.
3. Woodmen.
4. Sand and clay collection.

(2) Department of Extraction.

BUREAUS.

1. Metallic extraction.
2. Coal and oil extraction.
3. Lime extraction.
4. Slate, stone, marble quarries.

(3) Department of Growing.

BUREAUS.

1. Fish culture.
2. Fowl.
3. Insect.
4. Flesh.
5. Forage.
6. Grain.
7. Vegetables.
8. Fruits.
9. Fibres.
10. Miscellaneous growing.

(4) Department of Handcraft.

BUREAUS.

1. Bureau of food.
2. Clothing.
3. Shelter.
4. Machinery.
5. Decorations.

DIVISION II. [Distribution.]

(5) Department of Transportation.

BUREAUS.

1. Freight Traffic.
2. Passenger Traffic.

(6) Department of Storage.

BUREAUS.

1. Warehouses.
2. Stores.

(7) Department of Delivery.

BUREAUS.

1. Carrier Delivery.

(8) Department of Finance.

BUREAUS.

1. General audits.
2. Accounts.
3. Cash.
4. Exchange.

DIVISION III. [Commonweal.]

(9) Department of Administration.

BUREAUS.

1. Legislation.

SECTIONS.

- a.* Referendum.
- b.* Initiative.
- c.* Imperative mandate.

2. Executive.

SECTIONS.

- a.* Assignment of colony labor.
- b.* Assignment of outside work.

3. Judiciary.

SECTIONS.

- a.* Court of public disputes.
- b.* Of private disputes.
- c.* Of prizes and rewards.

(10) Department of Education.
(Children and adults.)

BUREAUS.

1. The Colony Journal.
2. Physical culture.

SECTIONS.

- a.* Gymnastics (Turn-verein).
- b.* Drill: "Setting-up."
- c.* Boxing, fencing, wrestling.
- d.* Swimming.
- e.* Shooting, archery.

3. Mental culture. (Speech-craft.) (11) Department of Public Service.

SECTIONS.

a. Science.—Heat, light, sound, motion, mechanics, electricity, chemistry, geology, zoology, mathematics, geography, history, astronomy, languages, philosophy, politics, sociology, metallurgy, logic, metaphysics, natural justice or law, medicine.

b. Literature.—Poetry, prose, belles-lettres.

c. Art.—Music, painting, sculpture, architecture, drama, tragedy, comedy, choral music, the dance, ceremonials and festivals, debate, declamation, the band, flower culture, modelling, drawing, design.

4. Moral culture.

SECTIONS.

a. *To teach the colonists to love* courage, fidelity, truth, kindness, purity, generosity, love, self-sacrifice, independence, modesty, gentleness, toleration, mercy, gratitude, justice, forgiveness, temperance, politeness, honesty, conscientiousness, speech-craft, firmness, judgment, prudence, perseverance, industriousness; *and to hate* cowardice, falsehood, treachery, infidelity, cruelty, impurity, avarice, niggardliness, hatred, selfishness, servility, vanity, ferocity, bigotry, vindictiveness, ingratitude, injustice, revengefulness, bestiality, indulgence, rudeness, dishonesty, unscrupulousness, garrulity, weakness, vacillation, rashness, stupidity, frivolity, desistance, and laziness.

These departments to be carried out by kindergarten, lecture, debate, classes, and the press.

BUREAUS.

1. Public health.
2. Drainage.
3. Fertilizing.
4. Roads.
5. Ditches.
6. Water supply.
7. Heating.
8. Lighting.
9. Pneumatics.
10. Post-office.
11. Telegraph and telephone.
12. Cleanliness.
13. Propaganda.

- (12) Department of Amusements should co-operate with the Department of Education.

BUREAUS.

1. Of Scientific exhibition.
2. Athletic exhibition.
3. Artistic exhibition.
4. Social amusement.

*.*There should be constructed for these departments elegant, imposing, and artistic structures, which might be called the FORUM, the THEATRE, the AMPHITHEATRE, the ARENA, ACADEME, etc.

- (13) Department of Defence.

BUREAUS.

1. Fire Department.
2. National Guard.